

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	
	<b>:</b>	
<b>v.</b>	<b>:</b>	<b>5:04-CR-39 (WDO)</b>
	<b>:</b>	
<b>ROBERT LEE OGLETREE,</b>	<b>:</b>	
	<b>:</b>	
<b>Defendant</b>	<b>:</b>	

**ORDER**

Defendant Ogletree filed a motion requesting the Court to toll the time in which he may file a habeas petition pursuant to 28 U.S.C. § 2255. “[E]quitable tolling is appropriate when a prisoner’s § 2255 petition is untimely because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence.” Johnson v. United States, 340 F.3d 1219, 1226 (11<sup>th</sup> Cir. 2003) (citations omitted). However, “equitable tolling applies only in truly extraordinary circumstances.” Id. (citations omitted). The petitioner “bears the burden of establishing that he is entitled to this extraordinary relief.” Id. (citations omitted).

Defendant’s conviction and sentence became final no later than March 29, 2005. Pursuant to 28 U.S.C. § 2244(d)(1)(A), he had one year thereafter to file a habeas petition - until March 29, 2006. The motion to toll was filed on April 15, 2006, the date Defendant signed the motion. Accordingly, the motion was filed outside the time period for filing a § 2255 petition. Although Defendant makes a vague argument that his sickness and actions of prison and/or hospital officials have made him unable to file a habeas petition before now, he has not shown (1) that his medical conditions were sufficiently debilitating to constitute “extraordinary circumstances” justifying

equitable tolling and (2) that he exercised enough diligence in pursuing his habeas petition during the one-year limitation period. Lang v. Alabama, 2006 WL 1208056, \* 2 (11<sup>th</sup> Cir. May 05, 2006). Further, Defendant failed to set forth any specific conditions or actions by any government official that has prevented him from timely pursuing his habeas petition. The motion to toll is DENIED.

**SO ORDERED this 17<sup>th</sup> day of May, 2006.**

S/

**WILBUR D. OWENS, JR.  
UNITED STATES DISTRICT JUDGE**